IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3091 OF 2002

Raja Shri Shrivraya Pratishtan
Kothurd, Pune .... Petitioner

versus

The State of Maharashtra & ors. ... Respondents.

Shri P.B.Shah with Ms. S.Mane for petitioner
Shri S.R.Nargolkar AGP for Respds 1 to 3.
None for Respdt. no.4.

WITH

WRIT PETITION NO. 3111 OF 2002

Sidhai Mahila Mandal, Kolhapur .. Petitioner

versus

The State of Maharashtra and Ors.. Respondents.

Shri N.V.Bandiwadekar for petitioner
Shri S.R.Nargolkar AGP for Respdts. 1 to 3.
Shri S.S.Kanitkar with G.S.Godbole for Respdt. no.4

CORAM; V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED; 22ND JUNE, 2006.

JUDGMENT (Per Palshikar, J.):

1. By these petitions, the petitioners who are Non-Government Organisations, managing home for old-age (Vruddhashram) under the scheme issued by Government of Maharashtra, have challenged withdrawal of the management of that old-age home by each of them on several grounds mentioned in the petitions. Facts

necessary for adjudication of this question in both the petitions are same. Reliance is placed on some Circulars or Resolutions of the Government. Therefore both the petitions can be decided by this common order.

2. Facts necessary for adjudication of the contentions raised in these petitions stated briefly are that on 17-11-1995 the Government issued a circular communicating its decision to start homes for old-age through Non-Government Organisations on the basis of grant-in-aid. The scheme was called "Matoshri Vruddhashram". Rules regarding effective management of this ashram were also laid down.

3. In pursuance of this circular, applications were invited and the petitioners in both the petitions applied for grant of such "Matoshri Vruddhashram" at their places. After due process, each of the petitioners were selected and "Matoshri Vruddhashram" at their places was granted to them.

4. After implementing this scheme for about five years, the Government came to a conclusion that it may not be mechanically possible for the State to continue the grant-in-aid for running of these institutions. Therefore it was decided to give the "Matoshri Vruddhashram" for management to Non-Government

Organisations who were willing to do it without any grant-in-aid at any point of time. The resolution by which this was decided by the State provided that those institutions, who are already granted "Vruddhashram" if are willing to accept no grant basis permanently, they would be given preference. The petitioners applied for no grant basis along with other institutions and their applications were also processed but the respondent institution was selected in preference. This grant to the respondent and denial to the petitioners is challenged by these petitions. Writ of mandamus is prayed for quashing the decision taken by the Government to give the Vruddhashram to the respondent and directing it to continue the allotment of Vruddhashram to the petitioner on no grant basis.

5. Basically two contentions were raised by the petitioners, seeking quashing of the grant to the respondent and continuation of the "Vruddhashram" with the petitioners. According to them, the rules provided for enquiry into mismanagement of the Vruddhashram by the concerned Non-Governemnt organisation. No such enquiry was conducted in the case of the petitioners and consequently their grant could not have been cancelled. No opportunity to explain their stand for continuation of the management of the Vruddhashram was given to them and principles of natural justices were violated. There was no complaint in the management of

the Vruddhashram by either of the petitioners and therefore, according to the new policy preference was bound to be given to them.

6. In our opinion, none of the contentions deserve any credence as they are baseless. Question of following principles of natural justice does not arise. Advertisement and circulars were issued inviting fresh applications and the petitioners themselves responded to this and claimed grant of Vruddhashram on no grant basis. This itself shows that the petitioners have complete knowledge of the fresh Government policy and they themselves have applied for such allotment of Vruddhashram on permanent no grant basis and that being so their applications have been considered and rejected. There is thus no question of violation of principles of natural justice.

7. It is pertinent to note that the earlier allotment of Vruddhashram on grant-in-aid basis did not create any vested right to the petitioners to continue such allotment for indefinite period. It is true that if the management of Vruddhashram was taken away from them for misconduct, provisions of the rules in that regard were liable to be followed. What has been done in this case is the policy of the Government in relation to giving grant-in-aid to Vruddhashram having changed, fresh policy was formulated for which applications were

invited. The petitioners were responded to this and after due consideration of all those applications, grant was made in favour of the respondent. In such circumstances, no legal error is caused to the petitioner. Consequently, there is no question of the petitioner being heard before such change in policy. It is also necessary to note that change in the Government policy is not except for the limited ground of malafide or arbitrariness. None of such grounds are raised herein and consequently on that ground also no interference is possible.

8. Then it was contented that the petitioners have incurred substantial expenses in establishing the Vruddhashram and maintain it thereafter. Therefore it has created an equitable right for the petitioners to continue the management of the vruddhashram. The Government has given a detailed reply to these allegations in the petition and has pointed out that every expenditure incurred for establishing and maintaining Vruddhashram were paid by the Government, if anything remains unpaid, it is a matter of money due and recoverable which can be asked by proper civil suit. Writ is not a remedy for that. There is thus no substance in these petitions and the same are dismissed. Interim order if any is vacated.

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